

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Deanna Mackey,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1230
Parcel No. 120/06091-000-000

On April 11, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Deanna Mackey was self-represented. Assistant County Attorney David Hibbard is counsel for the Board of Review and represented it at hearing. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Deanna Mackey, owner of property located at 1506 Linden Lane, Des Moines, Iowa appeals from the Polk County Board of Review decision assessing her property. The real estate was classified residential on the January 1, 2011, assessment and valued at \$94,000, representing \$23,500 in land value and \$70,500 in improvement value. According to the property record card, the subject property is a one-story home with 840 square of living area, an unfinished 386 square-foot attic, and no basement, built in 1951. There is also a 264 square-foot attached garage and a 211 square-foot, open porch. The improvements are a 4+00 grade and in above normal condition. The site is 0.284-acres.

Mackey protested to the Polk County Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). She asserts the

correct total value is \$79,500. She also claimed there was an error in the assessment under section 441.37(1)(a)(3). Her error claim, however, essentially reasserts a claim of over-assessment. The Board of Review denied the protest.

Mackey then appealed to this Board reasserting her claim and now asserts the actual value of the property is \$69,695.

Mackey provided a document titled “Property Assessment Appeal Evidence” that she obtained from Value Appeal, a company located in Seattle, Washington. According to Mackey, Value Appeal provides the property owner with sales of properties in an area based on input from the property owner. Mackey relied on this information to arrive at her opinion of a fair market value of \$69,695.

We note that Value Appeals report summary states, in part: “This evidence is not an appraisal and it is not an opinion of market value. The comparable sales were selected by the homeowner appellant.” Property in Iowa is to be assessed at fair market value; however, Mackey’s evidence clearly states that it is not an appraisal and it does not provide an opinion of market value. Additionally, there were no adjustments made to the properties for differences that may exist. And there is no information about the sales transactions to ensure they were arm’s length. For these reasons, we give it no consideration.

The Certified Record includes five sales the Board of Review considered comparable to the subject property.

Address	Sales Price	Adjusted Price	Square Feet	BSMT/SF	Price/SF	Adjusted Price/SF
1506 Linden Ln (subject)	n/a	n/a	840	0	\$111.90	n/a
1233 Carrie Ave	\$116,450	\$96,958	968	968	\$120.30	\$100.16
1510 Linden Ln	\$96,500	\$83,958	1,018	754	\$94.79	\$82.47
1227 Elder Ln	\$113,000	\$84,704	980	980	\$115.31	\$86.43
1405 Frazier Ave	\$105,000	\$92,204	900	900	\$116.67	\$102.45
1607 Carrie Ave	\$118,000	\$103,690	1,016	305	\$116.14	\$102.06

All are one-story homes with similar age, living area, and grades as compared to the subject property. While adjustments were made to the comparable properties to account for differences, we note the adjustments were cost based, rather than market-based. Therefore, we hesitate to give the analysis much reliance.

Viewing the evidence as a whole, we find the preponderance of the evidence does not support Mackey's claim of over-assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may

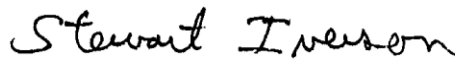
be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Mackey has not provided sufficient evidence of the fair market value of the subject property as of January 1, 2011.

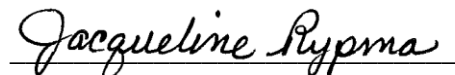
Therefore, we determine the property's assessment value as of January 1, 2011, is \$94,000, representing \$23,500 in land value and \$70,500 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is affirmed.

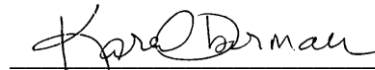
Dated this 2nd day of May 2013.



Stewart Iverson, Presiding Officer




Jacqueline Rypma, Board Member



Karen Oberman, Board Member

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ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>May 2, 2013</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
	
Signature _____	